

FILED

JUL 9 2012

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re

No. 11-72110 WJL
Chapter 11

Ernest Lincoln Bonner, Jr.

Debtor.

_____ /

MEMORANDUM REGARDING INTERIM FEE APPLICATION

On July 2, 2012, the Trustee filed a Supplemental Document regarding the debtor's interim fee application (Dkt. No. 88). In this supplemental pleading, the Trustee states that he "takes no position on whether Debtor's attorney has a security interest in the retainer or adequately disclosed that security interest." This matter was originally brought to the Court's attention by the U.S. Trustee and the Court would prefer to have this matter resolved as soon as possible. The Court believes that little good can come from further delaying resolution of this matter.

Therefore, the Trustee should be prepared to discuss this issue in detail at the hearing set for July 18, 2012 at 3:00 p.m.

The debtor's Supplemental Memorandum in Support of Interim Fee Application (Dkt. No. 87) cites *In re Cepek*, 339 B.R. 730 (9th Cir. BAP 2006). It is unclear whether *Cepek* is applicable to the case at bar. True, the case analyzes the importance of obtaining a "security retainer", but the result was to send the matter back down to determine if a security interest, in fact, existed and was perfected. While the debtor's supplemental memorandum cites the relevant language from the retention agreement concerning the retainer promised, it does not appear to address the creation or perfection of a security interest therein. Therefore, it is unclear how *Cepek* applies to the instant case.

Date:

July 9, 2012



The Honorable William J. Lafferty

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